

Exhibit A

Federal Employment Jury Instructions

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Chapter 10

Section 301 Breach of Contract/Breach of Fiduciary Duty Claims

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10-7

BREACH OF CONTRACT/FIDUCIARY CLAIMS

§10:90

**§10:70 Illusory Promises—
Collective Bargaining
Agreement**

As in all contracts, a collective bargaining agreement's terms must be construed so as to render none nugatory or meaningless, and to avoid illusory promises.

Comments

Source of Instruction: *Webb v. GAF Corp.*, 936 F. Supp. 1109, 1119-20 (N.D.N.Y. 1996).

**§10:80 Nature of Retiree
Benefits**

Another factor which you may wish to consider is the nature of the benefits at issue in this case. Retiree benefits are, in a sense, status benefits which, as such, carry with them an expectation that they continue so long as the prerequisite status is maintained.

This is not to say the retiree insurance benefits are necessarily interminable by their nature. Nor does any federal labor policy presumptively favor the finding of interminable rights to retiree insurance benefits when the collective bargaining agreement is silent. Rather, as part of the context from which the collective bargaining agreement

arose, the nature of such benefits simply provides another inference of intent.

Standing alone, this factor or expectation would be insufficient to find an intent of the parties to create interminable benefits. However, this contextual factor may, in your view, buttress other indicators of such intent which you may find in the language of the agreements and in other evidence in the record.

Comments

Source of Instruction: *Webb v. GAF Corp.*, 936 F. Supp. 1109, 1121-22 (N.D.N.Y. 1996).

**§10:90 Understanding of
Contract**

Contracts cannot be based upon the secret or unexpressed intention of one party which has not been conveyed to the other party. Nor can a contract be based on the unexpressed, subjective understanding of one party as to the contract's meaning which was not conveyed by that party to the other party.

Comments

Source of Instruction: *Webb v. GAF Corp.*, 936 F. Supp. 1109, 1123 (N.D.N.Y. 1996).